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NASA Procedural Requirements

COMPLIANCE IS MANDATORY

NPR 3713.3

Effective Date:
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Request Notification of Change

(NASA Only)

Subject: Anti-Harassment Procedures

Responsible Office: Office of Diversity and Equal Opportunity

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Preface

P.1 Purpose

a. This NPR establishes Agency-wide procedural requirements under which NASA employees and contractors shall report allegations of harassing conduct and sets forth the managers' and supervisors' responsibilities to maintain a harassment-free workplace and to take prompt and effective action when allegations of harassment arise. The NPR also identifies roles and responsibilities for the coordination of anti-harassment efforts at the Agency and Center levels and provides guidance and instruction to NASA supervisors and managers on receiving, coordinating, reviewing, processing, and resolving allegations of harassing conduct. These procedures will assist NASA in fulfilling its obligations: (1) to prevent harassment before it becomes severe or pervasive; (2) to conduct a prompt, thorough, and impartial investigation into allegations of harassing conduct; and (3) to take immediate and appropriate corrective action when the Agency determines that harassing conduct has occurred. This NPR does not cover allegations of harassment brought by contractors against their own (contractor) supervisors and/or contractor coworkers.

b. The rationale for this NPR derives from the Supreme Court in the cases of *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998), and *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), both of which emphasized the need for effective anti-harassment procedures to prevent and correct harassing conduct promptly. Such anti-harassment policy and procedures do not exist for the same purposes as the Equal Employment Opportunity (EEO) complaints process. The EEO process is designed to make individuals whole for discrimination that already has occurred. For example, where discrimination is found to have occurred, make-whole relief may include damage awards and equitable relief paid by the agency, designed in part to have the effect of preventing

the recurrence of the unlawful discriminatory conduct. The internal anti-harassment process, on the other hand, is intended to take immediate and appropriate corrective action, including the use of disciplinary actions, to eliminate harassing conduct regardless of whether the conduct violated the law. Therefore, the goal of this NPR is to address harassing conduct at the earliest possible stage, before it can become "severe or pervasive," i.e., harassment within the meaning of anti-discrimination law.

c. For the purposes of this NPR, harassing conduct is defined as any unwelcome conduct, verbal or physical, based on an individual's race, color, gender, national origin, religion, age, disability, sexual orientation, status as a parent, genetic information, or gender identity, or retaliation for making reports or allegations of harassment or providing information related to such allegations when: (1) the behavior can reasonably be considered to adversely affect the work environment or (2) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

d. This NPR is designed to address all harassing conduct on the bases defined above. The process established under this NPR is entirely separate and apart from the EEO complaints process. An employee who reports harassment in accordance with this NPR has not filed an EEO complaint under 29 CFR 1614 and NPD 3713.6P. An employee who wishes to file a complaint with EEO shall contact his/her Center EO Office within 45 days of the alleged harassment.

P.2 Applicability

This NPR is applicable to NASA Headquarters, NASA Centers including Component Facilities and the Technical and Service Support Centers. Unless otherwise indicated, use of the word Center(s) in the text of this NPR includes NASA Headquarters and the NASA Shared Services Center. Any reference to Center Director(s) includes the Executive Director for the Office of Headquarters Operations and the Executive Director, NASA Shared Services Center. The Office of the Inspector General has statutory independence and may create a separate anti-harassment procedure that more effectively meets its needs.

P.3 Authority

- a. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. S 2000e-16.
- b. Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. S 633a.
- c. Rehabilitation Act of 1973, as amended, 29 U.S.C. SS 791, 794, and 794a.
- d. Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4214.
- e. Americans with Disabilities Act of 1990, 42 U.S.C. S 12101 et seq.
- f. Executive Order 13087 (May 28, 1998), amending Executive Order 11478 (August 9, 1969), Equal Employment Opportunity in Federal Government.
- g. Executive Order 13152 (May 2, 2000), amending Executive Order 11478 (August 9, 1969), Equal Employment in Federal Government.
- h. NASA Policy Directive 3713.2, Federal Equal Opportunity Programs of NASA.

- i. NASA Policy Statement on Non-Harassment (issued annually).

P.4 Applicable Documents

- a. Privacy Act of 1974, Privacy Act, 5 U.S.C. 552a.
- b. NASA Procedural Requirements 1441.1, NASA Records Retention Schedules.
- c. NPR 1382.1, NASA Privacy Procedural Requirements.
- d. NASA Policy Directive 2025.1, NASA Ombuds Program.
- e. EEOC Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (June 1999).
- f. EEOC, Model EEO Programs Must Have An Effective Anti-Harassment Program (September 2005).

P.5 Measurement/Verification

- a. Centers shall periodically evaluate the operations and success of their Center's Anti-Harassment process in consultation with the Office of Diversity and Equal Opportunity and cooperate with periodic data-gathering and other evaluation activities. These shall include, for example, reporting on the number and bases of allegations over time, ensuring that the fact-finding and other actions taken in response to allegations are in accordance with the requirements of this directive.
- b. Centers shall maintain case files pertaining to this NPR, in accordance with NPR 1441.1, NASA Records Retention Schedules.

P.6 Cancellation

None.

/S/

Thomas S. Luedtke
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Institutions and Management

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